

batch of product made. If the proprietor elects to use this option, the proprietor must determine the permanent standard effective tax rate based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used to manufacture the product. Thus, the permanent standard effective tax rate is the highest tax rate that would apply to the product because it is based on a batch with the least amount of alcohol from eligible wine and flavors that qualify for the credit under 26 U.S.C. 5010. By using this method the proprietor forgoes the possible use of a lower tax rate in exchange for the convenience of using a permanent standard effective tax rate that does not have to be recomputed for each batch of product made. The proprietor must keep a permanent record of the standard effective tax rates established for each product, in accordance with § 19.615.

(b) *Batches subject to a higher tax rate.* Whenever the proprietor manufactures a batch of the product with a lesser quantity or lower alcohol content of eligible wine or eligible flavor, this will result in a higher tax rate on the product since the product will have less alcohol qualifying for the credit under 26 U.S.C. 5010 and a higher percentage of alcohol taxable at the rate published in 26 U.S.C. 5001. In such instances, the proprietor must keep the cased goods segregated from other completed cases of the same product subject to the permanent standard effective tax rate for that product. The proprietor must determine the tax rate for the non-standard batch in accordance with § 19.247.

(c) *TTB review of standard tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### § 19.249 Average effective tax rate.

(a) *Establishing an average tax rate.* The proprietor may establish an average effective tax rate for any eligible distilled spirits product based on the total proof gallons in all batches of the same composition which have been pro-

duced during the preceding 6-month period and which have been or will be bottled or packaged, in whole or in part, for domestic consumption. At the beginning of each month, the proprietor must recompute the average effective tax rate so as to include only the immediately preceding 6-month period. The proprietor must show the average tax rate established for a product in the record of average effective tax rates as prescribed in § 19.613.

(b) *TTB review of average effective tax rates.* If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### § 19.250 Inventory reserve account.

(a) The proprietor may establish an inventory reserve account for any eligible distilled spirits product by maintaining an inventory reserve record as prescribed by § 19.614. The effective tax rate applied to each removal or other disposition will be the effective tax rate recorded on the inventory reserve record from which the removal or other disposition is depleted. With an inventory reserve account, the proprietor will tax pay removals on a first-in first-out basis regardless of which lot of product is actually removed.

(b) If the appropriate TTB officer finds that the use of this procedure jeopardizes the revenue, or causes administrative difficulty, the proprietor upon notification from TTB must discontinue use of this procedure.

(26 U.S.C. 5010, 5207)

#### ASSESSMENT OF TAXES BY TTB

#### § 19.253 Assessment of tax on spirits not accounted for or reported.

The proprietor is required by law to properly account for and report all spirits that it produces. TTB will assess the proprietor for the tax on the difference between the quantity reported and the quantity actually produced.

(26 U.S.C. 5006)

## § 19.254

### § 19.254 Assessment of tax for losses or unauthorized removals.

(a) *Lost or destroyed in bond.* TTB will assess the proprietor for the tax on spirits, denatured spirits, or wines in bond that are lost or destroyed if:

(1) The proprietor is liable for the tax on spirits, denatured spirits, or wines in bond, and the proprietor fails to file a claim for remission of the tax on spirits, denatured spirits, or wines that are lost or destroyed in bond as provided in § 19.263(a), or

(2) The proprietor files a claim for such loss or destruction but the claim is denied. Exception: The provisions of this section do not apply to spirits, denatured spirits, or wines on which the tax is not collectable due to the provisions of 26 U.S.C. 5008(a) or (d), or 26 U.S.C. 5370, as applicable.

(b) *Unauthorized removal from bond.* (1) TTB will assess the proprietor for the tax on any spirits, denatured spirits, or wines in bond that are removed from bonded premises other than as authorized by law.

(2) TTB will assess the proprietor for tax on spirits or denatured spirits lost from casks or other packages as described in 26 U.S.C. 5006(b) if the proprietor does not pay the tax upon demand by the appropriate TTB officer.

(26 U.S.C. 5006, 5008, 5370)

#### ADDITIONAL TAX PROVISIONS

### § 19.256 Tax on wine.

(a) *Imposition of tax.* All wine (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported into or brought into the United States is subject to tax pursuant to 26 U.S.C. 5041 or 7652. The proprietor may be liable for wine taxes under 26 U.S.C. 5362(b)(3) for wine that is transferred in bond to the proprietor's distilled spirits plant. The proprietor may not remove wine from the bonded premises of a distilled spirits plant for consumption or sale as wine. (See 26 U.S.C. 5362.)

(b) *Liability for tax.* Except as otherwise provided by law, the proprietor is liable for the tax on wine transferred in bond to the proprietor's distilled spirits plant from a bonded wine cellar or from another distilled spirits plant until the proprietor uses the wine in

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the manufacture of a distilled spirits product or properly disposes of the wine as provided elsewhere in this part.

(26 U.S.C. 5041, 5362, 7652)

### § 19.257 Imported spirits.

The proprietor will incur a tax liability greater than the internal revenue tax imposed by 26 U.S.C. 5001(a)(1), if spirits originally imported for nonbeverage purposes are transferred from customs custody to TTB bonded premises pursuant to 26 U.S.C. 5232, and the proprietor subsequently decides to withdraw the spirits for beverage purposes. If the spirits would have been subject to a higher duty had they been imported for beverage purpose, the proprietor must pay a tax equal to the difference between the higher duty and the duty actually paid. Proprietors will refer to this additional tax as “additional tax—less duty” and pay it at the same time and in the same manner as the distilled spirits excise tax. Proprietors must compute the amount of “additional tax—less duty” owed by applying this rate to the total quantity of proof gallons withdrawn. The proprietor must make a separate entry on the tax return labeled “additional tax—less duty” and show the amount of tax due.

(26 U.S.C. 5001)

### § 19.258 Additional tax on nonbeverage spirits.

The additional tax imposed by 26 U.S.C. 5001(a)(8), on imported spirits withdrawn from customs custody without payment of tax and later withdrawn from bonded premises for beverage purposes, and the related provisions of § 19.257, are not applicable to Puerto Rican or Virgin Islands spirits brought into the United States and transferred to bonded premises under the provisions of this part.

(26 U.S.C. 5201)

## Subpart J—Claims

### § 19.261 Scope.

This subpart covers the various types of claims that a proprietor may file and includes provisions regarding the following: